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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/058,163 05/04/93 ABRUTYN

E DC-3914

CRE, D EXAMINER

12M2/0906

 PATENT DEPT.
MAIL C01232
DOW CORNING CORPORATION
MIDLAND, MI 48686

ART UNIT PAPER NUMBER

REC'D

1203

SEP 09 1994

DATE MAILED: 09/06/94

 This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

due! 12/06/94

☐ This application has been examined

☒ Responsive to communication filed on 3/27/94

☐ This action is made final.

 A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice re Patent Drawing, PTO-848. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

 1. ☒ Claims 1-19 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

 2. ☐ Claims _____ have been cancelled.

 3. ☐ Claims _____ are allowed.

 4. ☒ Claims 1-19 are rejected.

 5. ☐ Claims _____ are objected to.

 6. ☐ Claims _____ are subject to restriction or election requirement.

 7. ☐ This application has been filed with Informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

 8. ☐ Formal drawings are required in response to this Office action.

 9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable. ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-848).

 10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).

 11. ☐ The proposed drawing correction, filed on _____, has been ☐ approved. ☐ disapproved (see explanation).

 12. ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received
☐ been filed in parent application, serial no. _____; filed on _____.

 13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

 14. ☐ Other

EXAMINER'S ACTION

Serial No. 08/058,163

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Art Unit 1203

1. Claims 1-19 are rejected under 35 U.S.C. § 112, first and second paragraphs, as the claimed invention is not described in such full, clear, concise and exact terms as to enable any person skilled in the art to make and use the same, and/or for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The instant claims remain under rejection for the reasons of record. The term "A solid pheromone" is still recited in the claims and this recitation renders the claims indefinite and confusing. The recitation of the term "A liquid pheromone" would obviate said confusion, since applicant has indicated liquid pheromones are what he intended to embrace.

The reissue oath or declaration remains defective for the reasons, of record. A careful reading of the Hawley reference submitted by applicants to obviate the oath defects has been considered, but fails to obviate the same. The Hawley reference fails to indicate if the pheromones of claims 13 and 14 are liquids, for example.

Art Unit 1203

2. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

3. Claims 1-19 remain under rejection under 35 U.S.C. § 103 as being unpatentable over Ciba-Geigy, of record, for the reasons of record.

Rationale: Applicants arguments addressed to the rejection of record have been considered, but the same are not convincing. Applicants urging that the Ciba patent is not pertinent, because the entrapping polymer is prepared in a specific manner is not convincing, since the instant claims as drafted fail to exclude polymers prepared in the manner in which the Ciba polymers are prepared. Accordingly, the rejection of record is maintained.

Art Unit 1203

No claim is allowed.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Any inquiry concerning this communication should be directed to Examiner Ore at telephone number (703) 308-1235.

A facsimile center has been established in Group 1200, room 3C10. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. The telecopier numbers for accessing the facsimile machine is (703) 308-4556 or 305-3592.

ORE:tcj
August 15, 1994


DALE R. ORE
PRINCIPAL EXAMINER
GROUP 1200